

USSN 10/529,131
Amendment dated August 18, 2009

Docket No.: 61843USN(51035)

REMARKS

Claims 1-5, 11 and 12 are pending in the instant application. Claims 6-10, 13 and 14 stand canceled. Claims 1, 2, 5, and 12 have been amended to correct typographical errors and to more clearly delineate the claimed subject matter. No new matter is introduced.

Amendment of any claim herein is not to be construed as acquiescence to any of the rejections/objections set forth in the instant Office Action, and was done to expedite prosecution of the application. Applicants make these amendments without prejudice to pursuing the original subject matter of this application in a later filed application claiming benefit of the instant application, including without prejudice to any determination of equivalents of the claimed subject matter.

Claim Objections

Claim 1 is objected to, allegedly due to a typographical error. Claim 1 has been amended to correct the typographical error. The objection is overcome and withdrawal of the objection is respectfully requested.

Rejection under 35 U.S.C. 112, second paragraph

Claims 5 and 12 are rejected as allegedly uncertain regarding the antecedent basis of certain terms of the claims. Claims 5 and 12 have been amended. The rejections are overcome and withdrawal of the rejection is respectfully requested.

Rejection under 35 U.S.C. 102(b)

Claims 1, 2, 4, 5, 11 and 12 are rejected as being anticipated by Papadopoulou et al. (Journal of the Institute of Brewing, 2000, 106(3), pp 179-188). It is alleged that Papadopoulou teaches a composition comprising barley and a beta hop acid to prepare a composition, that the barley is a livestock feed, the composition is an organic food supplement, and that treating the bacteria as described in the Applicants' claims is inherently provided by Papadopoulou.

Applicants traverse but have amended claim 1 to include an aqueous alkali solution of hop acids. Support can be found at least at Examples 10 and 11 of the application as filed.

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Papadopoulou is directed towards malt preparation using beta hop acids in barley. Papadopoulou provides no teaching of the preparation of a food supplement for livestock using an aqueous alkali solution of hop acids. Applicants submit that Papadopoulou does not teach each and every element of the claimed subject matter as amended; that is, Papadopoulou at least fails to teach mixing an aqueous alkali solution of hop acids with feed. Applicants submit that the rejection is thereby overcome and respectfully request that the rejection be withdrawn.

Claims 1, 2, 5, 11 and 12 are rejected as anticipated by Arnould et al (Revue de l'Agriculture, 1983, pp 94-105). It is alleged that Arnould provides a method of making an organic food supplement for livestock comprising mixing an effective amount of isohumulone and feed plant, such as alfalfa and barley.

Applicants traverse but have amended claim 1 to include an aqueous alkali solution of hop acids. Support can be found at least at Examples 10 and 11 of the application as filed.

Arnould is directed towards the formation of a food supplement comprising both hop acid (isohumulones) and malt dregs for an animal feed. Arnould provides no teaching of the preparation of a food supplement for livestock using an aqueous alkali solution of hop acids. Applicants submit that Arnould does not teach each and every element of the claimed subject matter as amended; that is, Arnould at least fails to teach mixing an aqueous alkali solution of hop acids with feed. Applicants submit that the rejection is thereby overcome and respectfully request that the rejection be withdrawn.

Rejection under 35 U.S.C. 103(a)

Claims 1-5, 11 and 12 are rejected as obvious over Johnson et al (GB 2330076), in view of Makin (GB 120166) and Goldreich (GB 132597). It is alleged that Johnson teaches a method of preparing an organic food supplement comprising mixing extracts of Humulus lupulus with a food product, but does not teach mixing the hop acids with an animal feed. It is also alleged that Makin teaches a process for the production of foodstuffs by oral ingestion by animals comprising spent hops, and Goldreich teaches a fodder comprising dried spent hops. It is then alleged that one of ordinary skill in the art would expect and would be motivated to combine the compositions of Makin and Goldreich with Johnson to arrive at the Applicants' claimed invention.

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Applicants traverse but have amended claim 1 to include an aqueous alkali solution of hop acids. Support can be found at least at Examples 10 and 11 of the application as filed.

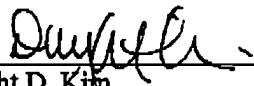
In contrast to the Applicants' claims as amended, Johnson does not teach or suggest a method of preparing an organic food supplement comprising mixing an aqueous alkali solution of hop acids with a livestock feed. Johnson is thus distinct from the Applicants' claims at least in the type of hop acid used and the type of feed.

The combination of Makin or Goldreich with Johnson fails to correct the deficiencies of Johnson. More specifically, neither Makin or Goldreich provides any teaching or suggestion of an aqueous alkali solution of hop acids. Thus, neither Makin or Goldreich provides the motivation or expectation to arrive at a method of preparing a food supplement where an aqueous alkali solution of hop acids is mixed with a livestock feed. Additionally, Makin or Goldreich, in combination with Johnson, does not provide the Applicants' claim embodiments. Applicants respectfully request withdrawal of this rejection.

In view of the above amendment, Applicants believe the pending application is in condition for allowance. Should any of the claims not be found to be allowable, the Examiner is requested to telephone Applicants' representative at the number below. Applicants thank the Examiner in advance for this courtesy. The Director is hereby authorized to charge or credit any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1105, under Order No. 51035-61843 USN.

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Respectfully submitted,

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